

Honorable Brian D. Lynch
Hearing Date: May 8, 2018
Hearing Time: 10:00 A.M.
Location : Tacoma, Courtroom I
Responses Due: May 1, 2018

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

In Re:

PUGLIA ENGINEERING, INC.

Debtor.

NO. 18-bk-41324 BDL

RESPONSE AND OBJECTION OF
CREDITOR IBEW PACIFIC COAST
PENSION FUND TO DEBTOR'S
MOTION FOR ORDER APPROVING
COMPROMISE AND SETTLEMENT
PURSUANT TO BANKRUPTCY RULE
9019

Creditor, the IBEW Pacific Coast Pension Fund (hereinafter referred to as the "Fund"), by and through its attorneys of record, Jane P. Ewers and Leta A. Eschenbacher, hereby respond and object to Debtor, Puglia Engineering, Inc.'s (hereinafter referred to as "Puglia") Motion for Order Approving Compromise and Settlement Pursuant to Bankruptcy Rule 9019.

The Fund is a joint labor-management trust fund created pursuant to Section 302(c) of the Labor Management Relations Act 29 U.S.C. § 186(c) and governed by the Employee Retirement Security Act of 1974 (ERISA), 29 U.S.C. § 1001, et seq., as

RESPONSE AND OBJECTION OF CREDITOR IBEW PACIFIC COAST
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COMPROMISE AND SETTLEMENT PURSUANT TO BANKRUPTCY
RULE 9019- 1

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1 amended. The Fund provides pension benefits for eligible participants and
2 beneficiaries which are funded through employer contributions. Debtor, Puglia had an
3 obligation to contribute to the Fund on behalf of its employees covered under a
4 collective bargaining agreement as the result of a business transaction with BAE
5 Systems Ship Repair, Inc., the predecessor contributing employer. Puglia has since
6 withdrawn from the Fund and is liable for withdrawal liability, as will be assessed.

7
8 Puglia has moved this Court for an Order Approving Compromise and
9 Settlement between Puglia (and affiliated debtor San Francisco Ship Repair, Inc.) and
10 BAE Systems Ship Repair, Inc., regarding the disputed sale of BAE San Francisco
11 Ship Repair which resulted in two parallel lawsuits in California and New York.
12 Pursuant to the terms of the Settlement Agreement, among other things, the parties
13 will grant each other release, BAE will pay to Puglia \$1.4 million, and the California
14 and New York lawsuits will be dismissed.

15 The Fund does not object to the release, the payment of \$1.4 million, or the
16 dismissal of the lawsuits. Rather, the Fund's objection is limited to any term or
17 provision of the Settlement Agreement or Proposed Order which may attempt to limit
18 the liability of any party of said Agreement for the withdrawal liability assessed by and
19 payable to the Fund. The parties cannot negotiate away an obligation to the Fund.
20

21 The Fund respectfully requests this Court confirm that the obligations arising
22 under ERISA for the withdrawal liability as assessed by the Fund, will not be waived,
23 extinguished, or compromised on behalf of Puglia, San Francisco Ship Repair, BAE

1 Systems Ship Repair, Inc., and any direct or indirect affiliates thereof, through the
2 proposed Settlement Agreement or otherwise in this action, without adjudication or the
3 consent of the Fund.

4 DATED this 1st day of May, 2018

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TURNER, STOEVE & GAGLIARDI, P.S.

/s/ Jane P. Ewers

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CERTIFICATE OF SERVICE

I certify that on this 1st day of May, 2018, I caused the foregoing pleading to be electronically filed using the CM/ECF system, which caused all parties herein to be electronically served through the Court's e-service program.

DATED this 1st day of May, 2018, at Spokane, Washington.

TURNER, STOEVE & GAGLIARDI, P.S.

/s/ Jane P. Ewers

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